

# HOUSE BILL No. 1404

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 34-61.

**Synopsis:** Abusive litigants. Establishes a procedure for a court to determine that an individual is an abusive litigant, and prohibits an abusive litigant from filing or continuing a civil action or civil appeal without permission of the court.

**Effective:** July 1, 2022.

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## Austin

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January 13, 2022, read first time and referred to Committee on Judiciary.

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Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

# HOUSE BILL No. 1404

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 34-61 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
3 2022]:  
4 **ARTICLE 61. ABUSIVE LITIGANTS**  
5 **Chapter 1. Application and Definitions**  
6 **Sec. 1. (a) This article does not apply to a criminal action.**  
7 **(b) This article applies only to a civil action.**  
8 **Sec. 2. The following definitions apply throughout this article:**  
9 **(1) "Abusive conduct" means a knowing or intentional course**  
10 **of conduct by a plaintiff in a civil action or civil appeal that is:**  
11 **(A) not performed in good faith and is primarily intended**  
12 **to harass or maliciously injure another party to the civil**  
13 **action;**  
14 **(B) not warranted under existing law and that cannot be**  
15 **supported by a good faith argument for an extension,**  
16 **modification, or reversal of existing law; or**  
17 **(C) made in bad faith with the intent of needlessly and**



- 1 groundlessly delaying the action.
- 2 (2) "Abusive litigant" means a person who habitually,
- 3 persistently, and without reasonable grounds engages in a
- 4 knowing or intentional course of conduct involving repeated
- 5 or continuing abusive conduct as:
- 6 (A) a plaintiff in a civil action filed in a trial court; or
- 7 (B) an appellant in an appeal from a civil action filed in the
- 8 court of appeals;
- 9 regardless of whether the abusive conduct was performed in
- 10 one (1) or more civil actions or appeals against the same or
- 11 different parties. The term includes a person who has been
- 12 found to be an abusive litigant in another jurisdiction.
- 13 However, the term does not include an attorney unless the
- 14 attorney is appearing pro se.
- 15 (3) "Attorney" means an attorney licensed to practice law in
- 16 Indiana.
- 17 (4) "Trial court" means:
- 18 (A) a circuit court;
- 19 (B) a superior court;
- 20 (C) a probate court;
- 21 (D) a city court;
- 22 (E) a town court; or
- 23 (F) a small claims court.
- 24 **Chapter 2. Remedies**
- 25 **Sec. 1.** A person who has been named as a defendant or appellee
- 26 in an action or appeal brought by an individual whom the person
- 27 believes to be an abusive litigant may file a civil action in a circuit
- 28 or superior court to have the individual declared to be an abusive
- 29 litigant.
- 30 **Sec. 2.** (a) If the trier of fact determines that the individual
- 31 described in section 1 of this chapter is an abusive litigant, the
- 32 court may, except as provided in subsection (b), issue an order
- 33 prohibiting the abusive litigant from doing any of the following
- 34 without permission of the court that determined that the individual
- 35 is an abusive litigant, in the case of a civil action in the trial court,
- 36 or without the permission of the court of appeals in the case of a
- 37 civil appeal:
- 38 (1) Filing a civil action or proceeding in a trial court.
- 39 (2) Continuing to litigate a civil action or proceeding filed by
- 40 the abusive litigant in a trial court before the individual was
- 41 determined to be an abusive litigant.
- 42 (3) Filing a civil appeal in the court of appeals.



1           **(4) Continuing to litigate a civil appeal or other proceeding**  
 2           **filed by the abusive litigant in the court of appeals before the**  
 3           **individual was determined to be an abusive litigant.**

4           **(5) Filing any other petition with a trial court or court of**  
 5           **appeals, aside from a petition seeking permission to:**

6               **(A) file a civil action in a trial court;**

7               **(B) continue to litigate a civil action or proceeding filed by**  
 8               **the abusive litigant in a trial court;**

9               **(C) except as provided in section 3(b) of this chapter, file a**  
 10              **civil appeal in the court of appeals; or**

11              **(D) continue to litigate a civil appeal or other proceeding**  
 12              **filed by the abusive litigant in the court of appeals.**

13           **(b) If the individual determined to be an abusive litigant is an**  
 14           **attorney, the court's order under this section applies only to a**  
 15           **petition, proceeding, civil action, or appeal in which the attorney**  
 16           **appears pro se.**

17           **(c) An order issued under this section is permanent, unless the**  
 18           **court specifies in the order an expiration date.**

19           **Sec. 3. (a) If an abusive litigant files a petition for permission to**  
 20           **file or continue a petition, proceeding, or action described in**  
 21           **section 2 of this chapter in a trial court, the court shall grant**  
 22           **permission for the abusive litigant to file or continue the petition,**  
 23           **proceeding, or action only if the abusive litigant establishes by a**  
 24           **preponderance of the evidence that:**

25               **(1) the petition, proceeding, or action is filed in good faith;**  
 26               **and**

27               **(2) there is a reasonable basis for the petition, proceeding, or**  
 28               **action.**

29           **The statute of limitations for filing a civil action is tolled during the**  
 30           **pendency of any proceedings concerning the petition for**  
 31           **permission to file or continue a petition, proceeding, or action in a**  
 32           **trial court.**

33           **(b) If an abusive litigant files a petition for permission to file a**  
 34           **civil appeal with the court of appeals, the abusive litigant shall**  
 35           **tender the notice of appeal at the time the individual files the**  
 36           **petition.**

37           **(c) The pendency of a petition for permission to file or continue**  
 38           **a petition or appeal does not affect the deadlines and other time**  
 39           **limits that apply to appeals as set forth in the Indiana rules of**  
 40           **appellate procedure. If an abusive litigant files a petition for**  
 41           **permission to continue a petition, proceeding, or appeal, the**  
 42           **abusive litigant may tender another document during the pendency**



1 of the proceedings concerning the petition if necessary to comply  
2 with an appellate deadline or other time limit.

3 (d) The court of appeals shall grant permission for the abusive  
4 litigant to file or continue the petition, proceeding, or civil appeal  
5 only if the abusive litigant establishes by a preponderance of the  
6 evidence that:

7 (1) the petition, proceeding, or appeal was or will be filed in  
8 good faith; and

9 (2) there is a reasonable basis for the petition, proceeding, or  
10 appeal.

11 Sec. 4. The trial court that issues an order concerning an  
12 abusive litigant under section 2 of this chapter shall send a certified  
13 copy of the order to the supreme court's office of judicial  
14 administration. The office of judicial administration shall publish  
15 a list of abusive litigants on the supreme court's Internet web site.

16 Sec. 5. A court or the court of appeals shall dismiss a petition,  
17 proceeding, action, or appeal filed or continued by an abusive  
18 litigant unless the court or the court of appeals has issued an order  
19 granting the abusive litigant permission to file or continue the  
20 petition, proceeding, action, or appeal.

